

The complaint

Mr and Mrs G are unhappy with what The National Farmers' Union Mutual Insurance Society Limited did following a claim on their legal expense insurance policy. Although the policy is in joint names as the claim and complaint relate to Mrs G I'll mainly refer to her in this decision.

What happened

In March 2025 Mrs G sought assistance from her policy with an employment dispute (which she'd already spoken to her own solicitors about). Following a discussion with NFU she agreed to the appointment of a panel solicitor to progress it. She raised concerns about progress with NFU the following week which it contacted the panel firm about. Around ten days after the claim was made the panel firm advised it didn't have reasonable prospects of success (a requirement of the policy).

NFU said it wouldn't be providing cover for the claim but it would reconsider if Mrs G obtained a positive opinion on prospects from an expert. Mrs G was very unhappy that cover had been withdrawn and with what she'd been told when first making her claim. NFU said in the circumstances of this case it would fund counsel's opinion on the claims prospects of success.

In April Mrs G's own solicitor provided a positive opinion on the claim's prospects of success. NFU said that needed to be from a barrister. Mrs G said that hadn't been made clear in the letter she was sent following the decline of her claim. NFU asked the panel firm whether the further opinion from Mrs G's solicitor changed its position on prospects. They advised it didn't. At the start of June Mrs G's solicitor provided quotes to obtain counsel's opinion. That was provided the following month (and was also negative on the claim's prospects).

NFU said it was entitled to rely on the prospects opinion the panel firm had provided. And it didn't agree it had given Mrs G inaccurate information about using that firm when it first discussed the claim with her. It accepted there had been delay in providing Mrs G with call recordings relating to her claim and agreed to pay her £75 in recognition of that.

Our investigator thought the prospects opinion produced by the panel firm was one NFU was entitled to rely on. She didn't think it unreasonable NFU had outlined the advantages of using a panel firm to Mrs G. But she agreed Mrs G had been given some inaccurate and conflicting information about how to progress her claim. However, as a barrister's opinion had now been obtained she didn't think Mrs G had lost out as a result of that. But she accepted she'd been caused some avoidable distress and inconvenience for which she said NFU should pay her £100.

NFU agreed to do so. Mrs G didn't agree. In summary she said:

- NFU shouldn't have relied on the panel firm's assessment as it had been produced by a trainee which wasn't appropriate for her technical case (even if that person was supervised). She'd been told the claim would be assessed by a qualified solicitor and wouldn't have agreed to go ahead with the panel firm if she'd known that wasn't the

case. If a qualified solicitor had been appointed they would have confirmed her claim did have prospects of success.

- During its initial call with her NFU said she would be able to use her own solicitor if the panel firm's assessment was that her claim had less than 51% chance of success. She wouldn't have agreed to use the panel firm if she hadn't been told that.
- Her own solicitor had already confirmed the claim was likely to be successful (as had other lawyers she spoke to). If they'd been appointed from the outset NFU wouldn't have obtained an opinion from the panel firm and the legal fees she then incurred would have been covered by her policy (until the position on prospects of success changed).
- NFU had apologised for the poor service and advice she'd received meaning it had already accepted it was at fault here. It had provided multiple pieces of differing advice and taken months to provide her with telephone recordings. Her costs were over £16,000 so she didn't accept the £100 our investigator recommended was appropriate.
- She drew attention to the vulnerable position she was in when she contacted NFU which she believed it had taken advantage of. She also raised a number of more general questions about NFU's handling of employment tribunal cases which she thought we should obtain further information on.

So I need to reach a final decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The relevant rules and industry guidelines say NFU has a responsibility to handle claims promptly and fairly. It shouldn't reject a claim unreasonably.

I appreciate this has been an extremely difficult experience for Mrs G. I was very sorry to learn of the impact her dismissal had on her and how she felt in the lead up to that. This has clearly been a very distressing time for her. However, the question I need to consider is what NFU did after she made her claim to it. And, if it did get things wrong, whether her position has been adversely affected by that and what NFU needs to do to put things right if so. But while Mrs G feels we should obtain further information from NFU (about its more general handling of this sort of claim) I won't be doing that. That's because, having reviewed the file, I'm satisfied I already have the information I need to reach a fair outcome on her complaint.

Mrs G contacted NFU in March 2025. And having accepted her claim it set out some of the advantages of using a panel solicitor. I've reviewed the information she was provided with and I don't think the points NFU made were unreasonable. In particular I appreciate in her initial call with NFU it queried why she wanted to use her own solicitor. But I think it was appropriate for NFU to do so in order that Mrs G could make a properly informed decision about this. In response she was clear the key issue for her wasn't using a particular firm but their location in relation to her. Once NFU provided further information on where the panel firm was based she said she was happy to use them.

And it's a requirement for cover to be provided under her policy that reasonable prospects exist for the duration of the claim. The policy says that means *"For civil cases, the prospects that the Insured Person will recover losses or damages (or obtain any other legal remedy that [we] have agreed to, including an enforcement of judgment), make a successful defence or make a successful appeal or defence of an appeal, must be at least 51%."*

Mrs G didn't indicate during her initial call with NFU that her current solicitors had told her the claim did have reasonable prospects of success. I also think it unlikely a formal assessment of that had been carried out given the subsequent opinion that firm provided was dated 10 April 2025. Nor was there any discussion in this call of what would happen if the panel firm's prospects assessment was negative. In particular NFU didn't say the policy would provide funding for her own firm to pursue the claim if that was the case.

And it didn't say the claim would be assessed by a qualified solicitor either. NFU said the panel firm was "*qualified in employment disputes*". I think that was a reasonable point to make given publicly available information about that firm says it specialises in "*dealing with contentious litigation in the areas of personal injury, employment law and dispute resolution*". And as Mrs G agreed to the appointment of the panel firm I don't think NFU needed to explore further the appointment of her own firm. I think it was right it asked the panel firm to provide its opinion on the claim's prospects of success.

That opinion was provided on 21 March. I recognise Mrs G had concerns about the time taken for that given the need to meet Employment Tribunal deadlines. But NFU did follow matters up with the panel firm in response to her concerns. I don't think there was more it should have done here. And I don't think it acted unfairly in saying it wouldn't be providing cover for the claim as the panel firm didn't think this was likely to be successful.

I appreciate Mrs G may disagree with that opinion. But as an insurer isn't a legal expert we think it's entitled to rely on a properly written and reasoned legal opinion from someone suitably qualified and experienced when deciding whether the policy requirements as they relate to prospects of success have been met. I've reviewed the opinion in this case which I think is properly written and reasoned. It goes into some detail about Mrs G's claim and explains (with reference to relevant law) why it's unlikely to win.

Mrs G says the opinion shouldn't have been relied on as it was produced by a trainee solicitor. She doesn't feel that was appropriate and they didn't have suitable experience of a technical employment tribunal case like hers. I recognise her claim did involve some more unusual issues including whether the concerns she'd raised could amount to a protected disclosure. However, while the assessment was produced by a trainee the panel firm has confirmed they were supervised by a qualified solicitor within their employment team (who specifically reviewed this assessment and confirmed their agreement to it). The assessment was subsequently reviewed by a partner at the panel firm who is a specialist employment lawyer. They also confirmed their agreement to it. Given that I do think it was reasonable of NFU to rely on this when declining to provide funding for Mrs G's claim.

NFU explained next steps in a letter to Mrs G which said "*if you disagree with your lawyer's assessment you can get a written advice from a different appropriate expert. You would need to pay for this. If their assessment is that you are more likely than not to win we will refund the reasonable cost of the advice and reconsider your claim. Please provide us with the expert's quote in writing, the cost must be agreed by us before the work is carried out*".

That's in line with the policy terms which say "*[we] may require the Insured Person to get, at their own expense, an opinion from an expert that [we] consider appropriate, on the merits of the claim or proceedings, or on a legal principle. The expert must be approved in advance by [us] and the cost agreed in writing between the Insured Person and [us] Subject to this, we will pay the cost of getting the opinion if the expert's opinion indicates that Reasonable Prospects exist*".

I appreciate the policy terms or that correspondence from NFU don't reference obtaining a barrister's opinion. Mrs G also said there was no reference to that in a call she had with NFU on 18 March. And her solicitors subsequently provided an opinion on the claim's prospects

of success. As that was positive she argues NFU should have accepted the claim and refunded her the cost of that.

However, I don't agree with her on that. Prior to her solicitors producing a prospects assessment NFU had told Mrs G on 25 (and 26 March) that having reviewed her claim it was prepared to fund a barrister's assessment on prospects of success (and would cover the cost of that whether it was positive or negative). I accept that's different to what it previously said needed to happen. But given it went further than was required by the terms of the policy that's to her benefit.

Mrs G's solicitors then provided a positive opinion on prospects (which NFU hadn't agreed to). I think it was appropriate NFU asked the panel firm whether this opinion changed their position. They confirmed it didn't. That meant there were now two competing solicitor's opinions on the claim. Where that's the case the appropriate way forward is to obtain a barrister's opinion to resolve that difference of view. That's what then took place (and I understand NFU paid for that). I don't think NFU needs to reimburse Mrs G for the solicitor's opinion she did obtain given it hadn't agreed to this in advance and it wasn't in line with the next steps it had previously set out.

But I think it's agreed there was delay by NFU in providing Mrs G with call recordings. However, I think the £75 compensation it's already offered for that is appropriate. I also think that in other correspondence with Mrs G there has been some confusing information provided to her. An initial call with the legal helpline suggested she wouldn't be able to use her own solicitor at all which wasn't correct. And on occasion NFU could have been clearer about how her claim should be progressed.

Looking at the overall journey of her claim I don't think this had a significant impact on that but I accept it will have caused Mrs G unnecessary distress and inconvenience at what was already a difficult time. Taking into account the impact on Mrs G of that I think the £100 our investigator recommended is appropriate. I appreciate that falls far short of the financial loss she's set out in her submissions. But it isn't intended to address that. That's because, and for the reasons I've explained, I don't believe that loss results from anything NFU got wrong.

My final decision

I've decided to uphold this complaint. The National Farmers' Union Mutual Insurance Society Limited will need to put things right by paying Mrs G a total of £175 (inclusive of the £75 it's already agreed to pay).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G and Mr G to accept or reject my decision before 17 February 2026.

James Park
Ombudsman